

AO 91 (Rev. 08/09) Criminal Complaint

**FILED**

2011 JAN 18 PM 3:13

CLERK US DISTRICT COURT  
WESTERN DISTRICT OF TEXASBY *DM* DEPUTY

## UNITED STATES DISTRICT COURT

for the

Western District of Texas

United States of America

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v.

)

Phillip Noel Filardi

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Case No. 1:11-m-30

*Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 3, 2010 in the county of Travis in the  
Western District of Texas, the defendant(s) violated:*Code Section*Title 18, USC Section(s) 2113 (a)  
and 924 (c)*Offense Description*by force and violence, and by intimidation, take, from the person or presence  
of another money belonging to and in the care, custody, control,  
management, and possession of IronStone Bank, 5500 Bee Caves Road,  
Westlake Hills, Texas, a financial institution insured by the Federal Deposit  
Insurance Corporation, and did use and carry a firearm during and in relation  
to, and possess a firearm in furtherance of, said bank robbery, a crime of  
violence for which said defendant may be prosecuted in a court of the United  
States.

This criminal complaint is based on these facts:

 Continued on the attached sheet.

Complainant's signature

Dennis R. May, Special Agent - FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 1/18/11

Judge's signature

ROBERT PITMAN

U.S. MAGISTRATE JUDGE

Printed name and title

City and state: T Austin, Texas

**AFFIDAVIT**

I, Dennis R. May, being duly sworn, hereby depose and say the following:

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI) and have been so employed since April 1992. I am currently assigned to the San Antonio Field Office, Austin Resident Agency. My duties and responsibilities include investigation of alleged violations of federal criminal laws, including bank robberies.

2. I am conducting a criminal investigation into a series of bank robberies occurring on January 29, 2010 and April 16, 2010, at Wells Fargo Bank, at 2104 Guadalupe Street, Austin, Texas; and on September 3, 2010 at IronStone Bank, at 5500 Bee Caves Road, Westlake Hills, Texas, all in the Western District of Texas.

3. The information in this affidavit is based upon my personal observations and credible information provided to me by other law enforcement officers. This affidavit does not contain all of the information concerning this investigation that is known to me or to law enforcement officers but describes only those relevant facts necessary to establish probable cause that Phillip Noel Filardi (Filardi) committed the offenses set forth in the attached Criminal Complaint attached hereto.

4. There is probable cause to believe that Filardi committed the offenses set forth in the attached Criminal Complaint based on the following facts:

a. On January 29, 2010 a bank robbery occurred at Wells Fargo Bank, at 2104 Guadalupe Street, Austin, Texas. The suspected robber entered the bank and approached a teller at the teller counter, brandished a black revolver, and stated something to the effect of, "This is a robbery. Give me all of your money. Give me the 'reserve money' too." Upon hearing the robber's demand for money, the teller removed

\$6500.00 from her teller drawer and handed it to the robber. The robber exited the bank, with the money, and was not further observed. Witnesses described the robber as a White male, thin build, approximately 5'10" tall, wearing a black ski mask, and carrying a black colored backpack. Additionally, witnesses described the robber as speaking with a foreign accent. One bank employee described the robber as speaking with an "Irish accent."

b. On April 16, 2010 a bank robbery occurred at Wells Fargo Bank, at 2104 Guadalupe Street, Austin, Texas. The suspected robber entered the bank and approached tellers at the teller counter, brandished a black revolver, and stated something to the effect of, "Okay Ladies Fill it up. Put everything in the bag. Don't put a dye pack in there." The robber then presented a backpack to the bank tellers. A witness described the backpack as black in color, with yellow and white pin striping on it. Upon hearing the robber's demand for money, the tellers removed money, totaling \$7488.00 from their teller drawers and placed it in the robber's backpack. The robber exited the bank, with the money, and was not further observed. Witnesses described the robber as a White male, thin build, approximately 5'7" to 6' tall, wearing a black ski mask; and wearing a white "hard hat." Surveillance images show the robbery suspect wearing a white "hard hat" with "H059" written on the side of the hat; a purple or blue one piece jumpsuit work outfit and a yellow reflective vest.

c. On September 3, 2010, a bank robbery occurred at IronStone Bank, 5500 Bee Caves Road, West Lake, Texas. The suspected robber entered the bank and approached tellers at the teller counter, brandished a black revolver, and stated something to the effect of, "Give me all the money and everything from the second

drawer. If there is a dye pack there will be a bloody mess.” Upon hearing the robber’s demand for money, the tellers removed money, totaling \$8389.00 from their teller drawers and placed it in a grey and black backpack, provided by the robber. The robber exited the bank, with the money, and was not further observed. Witnesses described the robber as a White male, thin build, approximately 5’8”, wearing a black ski mask, and a yellow rain jacket. A review of the bank surveillance cameras confirmed that the subject was wearing a black ski mask, a yellow raincoat and gloves, and he displayed a handgun. The video also showed the subject wearing a white hard hat. Additionally, a witness described the robber as speaking with an English or Australian accent.

A short time after the robbery, a responding Westlake Hill Police Officer C. Vasquez observed a white male, approximately 5’10”, thin build, later identified as Phillip Noel Filardi, walking not far from the bank, and he had a grey backpack on his back with his arms through the straps. Officer Vasquez noted that Filardi was walking in an alley area located behind HEB and near a wooded area. As Officer Vasquez drove by Filardi, Filardi began jogging. Although Filardi was wearing jogging attire and joggers are common in this area, Officer Vasquez had never seen a jogger who jogged with a backpack. A short time after seeing Filardi and his grey backpack, Officer Vasquez heard a police radio transmission from Westlake Hills Police Corporal D. Arispe, indicating that the suspect was seen carrying a grey backpack. Upon hearing this transmission, Officer Vasquez located and stopped Filardi, in an attempt to identify him and further the investigation. When Officer Vasquez approached Filardi he observed burrs (Also referred to as “hitchhikers”) all over his socks and bike shorts. These burrs are common to the wooded area near where Officer Vasquez had first observed Filardi.

This wooded area does not have a jogging path and is not used by joggers as a running area as there is too much vegetation. It would, however, provide a hidden area for someone to alter their clothing.

Officer Vasquez began asking a few questions of Filardi regarding where he was coming from. Filardi was still wearing the backpack and started tugging at the straps as if he was going to open it. Knowing that the robber had a gun, Officer Vasquez asked Filardi to take the backpack off and Filardi set the backpack down beside him (Filardi) and behaved nervously. Filardi did not have identification on him and given the nearness of the backpack and Filardi's earlier gestures towards the backpack, Officer Vasquez asked Filardi to place his hands in plain view on the patrol car. As Officer Vasquez started to ask Filardi further questions regarding what he was running from, Filardi removed his left hand off the car. Officer Vasquez asked Filardi to place both hand on the car. Filardi again removed his hands form the car. This raised further concern for Officer Vasquez as he had never had an innocent party twice remove their hands (in violation of his command to keep the hands on the car). Given the use of a firearm during the bank robbery, Filardi's suspicious behavior, his proximity to the bank and the "hitchhikers" on his clothing Officer Vasquez placed Filardi in handcuffs to better control his movements as the totality of the circumstances pointed to Filardi as being the bank robber. Backup officer had arrived at the scene. One of the officers indicated to the other officers that it was important to locate the firearm. Filardi spoke up and informed the officers the gun was in his backpack. Filardi's backpack contained a black revolver; \$8,389.00; a yellow rain jacket; a black ski mask; and a white "hardhat," with "H059" on the side of the helmet.

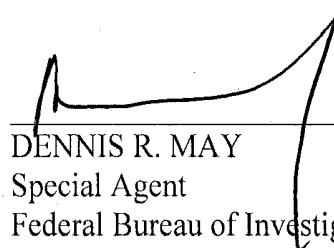
Westlake Hills Police located and impounded a blue Chevrolet Tahoe, with Texas License Plate # NXX-697, believed to be driven by Filardi, located in a business parking lot in the vicinity of where Filardi had been arrested. Filardi had the vehicle's key on his person, during the time of arrest. A subsequent inventory of the vehicle located an AR-15 type rifle; flex-cuffs; a blue one piece "jumpsuit;" and a yellow reflective vest.

d. Your affiant reviewed surveillance images obtained from Wells Fargo bank, depicting the January 29, 2010 and April 16, 2010 robbery suspect. It is the opinion of your Affiant that the abovementioned recovered ski mask and black revolver look similar to the ski mask and gun used by the January 29, 2010 robbery suspect. Additionally, it is your Affiant's belief that the recovered White "hard hat," ski mask, back pack, yellow reflective vest and blue one-piece jump suit, looks similar to the items used by the April 16, 2010 bank robbery suspect, as described by witnesses and, as seen on the above mentioned surveillance images.

e. Investigation has revealed that Phillip Noel Filardi is a White male, 5'10", approximately 170 pounds.

i. Based on the foregoing, there is probable cause to believe that Phillip Noel Filardi committed the offenses set forth in the attached Criminal Complaint.  
FURTHER AFFIANT SAYETH NAUGHT.

I declare under penalty of perjury that the foregoing is true and correct to the best of my belief.

  
DENNIS R. MAY  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn to before me at Austin, Texas, on this 18<sup>th</sup> day of January, 2010 Additionally, witnesses described the robber as speaking with an English or Australian accent.

  
UNITED STATES MAGISTRATE JUDGE